IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 2782 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT
and
Hon'ble MR.JUSTICE AKSHAY H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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2ND ADDITIONAL SPECIAL LAND ACQUISITION OFFICER
Versus
HARISHCHANDRA VANRAJSINH CHUDASMA

Appearance:
1. First Appeal No. 2782 of 2001
MR MA PATEL, AGP for Petitioner No. 1-2
MR GM AMIN for Respondent No. 1

CORAM : MR.JUSTICE J.N.BHATT
and
MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 05/07/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE J.N.BHATT)

1. The present appeal is directed against the judgment and award recorded by the learned 6th Joint Civil Judge [S.D.], Ahmedabad (Rural) at Mirzapur on 26/11/1999 in Land Acquisition Case No. 813 of 1998, whereby the respondents original claimants came to be granted an additional amount of compensation to the tune of Rs.9=35 ps. per sq. mtr., which is directly under challenge before us in this First Appeal u/S. 54 of the Land Acquisition Act, 1894 (Act).

2. We have heard the learned advocates appearing for the parties. We have also been taken through the relevant and material documentary evidence on the record and vivos evidence in course of the hearing, as the copies were supplied to us. The Reference Court granted additional amount of compensation to the claimants on the basis of an award at Exh.12 in Land Reference Case No. 934 of 1989 by the 3rd Joint District Judge, Ahmedabad (Rural) in respect of acquisition of land of same village for the same purpose. The notification u/S. 4(1) of the Act for the land in award at Exh.12, was published on 3/9/1987, whereas in this matter notification u/S. 4(1) of the Act came to be published on 18/7/1991. Therefore, the Reference Court considered it necessary and permissible to add value of the land at 10% per annum for appreciation. The difference between two dates of two notifications is about 3 years and 10 months and, therefore, the Reference Court considered 30% rise in the market value and resultantly awarded an amount of Rs.9=35 ps. per sq. mtr. additional compensation for the lands acquired. The Court had awarded an amount of Rs.7=50 per sq. mtr. for the land covered under award at Exh.12. The Reference Court has also considered the evidence of one witness Harishchandra Chudasama.

3. After having taken into consideration the facts and circumstances, the comparable award, which is a good evidence in the eye of law and the relevant proposition of law, we are satisfied that the additional amount awarded by the Reference Court, over and above the amount awarded by the Land Acquisition Officer is quite justified and nothing has been successfully pointed out, which would warrant our interference in exercise of powers u/S. 54 of the Act. In the net result, the appeal is required to be dismissed. The appeal is, therefore, dismissed, without any order as to costs.

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* Pansala.